



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

PEDRO NOSNIK, MD PA

**Respondent Name**

LIBERTY MUTUAL FIRE INSURANCE

**MFDR Tracking Number**

M4-11-1476-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

JANUARY 10, 2011

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "I am requesting full payment for this claim."

**Amount in Dispute:** \$445.30

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The bill and documentation attached to the medical dispute have been re-reviewed and our position remains unchanged. Our rationale is as follows: The request for MDR was already responded to on 11/03/2010 and a notice of Withdrawal was received on 01/05/11."

**Response Submitted By:** Liberty Mutual Insurance Group

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 28, 2010	CPT Code 95925-26 Short-latency somatosensory evoked potential study, stimulation of any/all peripheral nerves or skin sites, recording from the central nervous system; in upper limbs	\$41.27	\$41.27
	CPT Code 95900-26 (X6) Nerve Conduction Study – Motor without F-wave, each nerve	\$196.62	\$196.62
	CPT Code 95934-26-76 H-reflex, Amplitude and Latency Study, Record Gastrocnemus/Soleus Muscle.	\$29.00	\$0.00
	CPT Code 95936-26-76 H-reflex, Amplitude and Latency Study, Record Muscle Other Than Gastrocnemus/Soleus Muscle.	\$41.75	\$0.00
	CPT Code 95955-59-TC Electroencephalogram, EEG	\$75.95	\$75.95
	CPT Code 95937-26 Neuromuscular junction testing (repetitive stimulation, paired stimuli), each nerve, any 1 method	\$50.71	\$36.07
TOTAL		\$445.30	\$349.91

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, 33 *Texas Register* 364, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - X212-This procedure is included in another procedure performed on this date.
  - B291-This is a bundled or non covered procedure based on Medicare guidelines; no separate payment allowed.
  - 97-Payment is included in the allowance for another service/procedure.
  - D20- Claim/Service missing service/product information.
  - 17- Payment adjusted because requested information was not provided or was insufficient/incomplete. Additional information is supplied using the remittance advice remarks codes whenever appropriate.
  - W1- Workers Compensation State Fee Schedule Adjustment
  - U899-Procedure has exceeded the maximum allowed units of service.
  - 150- Payment adjusted because the payer deems the information submitted does not support this level of service.
  - X901-Documentation does not support level of service billed.
4. The Requestor originally submitted this dispute on October 15, 2010 and was docketed M4-11-0538-01. On January 5, 2011, the requestor withdrew the dispute because they had filed for dispute prematurely. The requestor resubmitted the dispute on January 10, 2011 and was docketed M4-11-1476-01.

### **Issues**

1. Is the value of CPT code 95925-26 included in the value of another procedure billed on the disputed date?
2. Is the value of CPT code 95900-26 included in the value of another procedure billed on the disputed date?
3. Did the requestor exceed the number of units allowed per Division rules and guidelines?
4. Does the documentation support billing CPT code 95934-26-76?
5. Does the documentation support billing CPT code 95936-26-76?
6. Does the documentation support billing CPT code 95955-59-26?
7. Is the value of CPT code 95925-26 included in the value of another procedure billed on the disputed date?
8. Is the requestor entitled to additional reimbursement for codes 95925-26, 95900-26, 95955-59-26 and 95937-26?

### **Findings**

1. According to the submitted explanation of benefits, the respondent denied reimbursement for CPT code 95925-26 based upon reason code "B291 and D20."

Per 28 Texas Administrative Code §134.203(b)(1) "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

On the disputed dates of service, the requestor billed CPT codes 95900-26, 95934-26, 95934-26-76, 95936-26, 95936-26-76, 95955-59-26, 95937-26, 95920-59-26, 95925-26, 95926-26, and 95861-26.

According to the CCI edits, CPT code 95925-26 is not a component of any of the other codes billed on the disputed date; therefore, the respondent's denial of payment based upon "B291" is not supported. Reimbursement in accordance with the Division's fee guideline is recommended

2. According to the submitted explanation of benefits, the respondent denied reimbursement for CPT code 95900-26 based upon reason code "97 and X212."

According to the CCI edits, CPT code 95900-26 is not a component of any of the other codes billed on the disputed date; therefore, the respondent's denial of payment based upon "97 and X212" is not supported. Reimbursement in accordance with the Division's fee guideline is recommended.

3. According to the submitted explanation of benefits, the respondent denied reimbursement for CPT Codes 95934-26 and 95936-26 based upon reason code "U899."

The respondent is relying on Medicare Utilization Guidelines to manage the claimant's care. 28 Texas Administrative Code §134.203(a)(7) states "Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program. Independent Review Organization (IRO) decisions regarding medical necessity made in accordance with Labor Code §413.031 and §133.308 of this title (relating to MDR by Independent Review Organizations), which are made on a case-by-case basis, take precedence in that case only, over any Division rules and Medicare payment policies."

The Division relies on the treating doctor to manage and or recommend the claimant's care. In addition, the Division sets out the treatment guidelines in 28 Texas Administrative Code §137.100, as well as a process for preauthorizing specific treatments and services in §134.600. The +Division finds that the respondent's denial based upon reason code "U899" is not supported.

4. According to the submitted explanation of benefits, the respondent also denied reimbursement for CPT Code 95934-26 based upon reason code "17." A review of the explanation of benefits finds that the respondent paid \$37.98 for the first study and \$0.00 for the repeat study.

CPT Code 95934 is defined as "H-reflex, amplitude and latency study; record gastrocnemius/soleus muscle." The requestor appended modifier "76-Repeat procedure by same physician" to the second 95934 code. A review of the submitted reports does not support billing a second study for the same operative session. As a result, reimbursement is not recommended.

5. According to the submitted explanation of benefits, the respondent paid \$40.67 for CPT Code 95936-26 and \$0.00 for 95936-76-26 based upon reason code "17."

CPT Code 95936 is defined as "H-reflex, amplitude and latency study, record muscle other than gastrocnemius/soleus muscle." The requestor appended modifier "76-Repeat procedure by same physician" to the second 95936 code. A review of the submitted reports does not support billing a second study for the same operative session. As a result, reimbursement is not recommended.

6. According to the submitted explanation of benefits, the respondent denied reimbursement for CPT code 95955-59-26 based upon reason code "150 and X901."

The requestor submitted an EEG report; therefore, the respondent's denial based upon "150 and X901" is not supported, reimbursement in accordance with the Division fee guideline is recommended.

7. According to the submitted explanation of benefits, the respondent denied reimbursement for CPT code 95937-26 based upon reason code "D20 and B291."

According to the CCI edits, CPT code 95937-26 is not a component of any of the other codes billed on the disputed date; therefore, the respondent's denial of payment based upon "D20 and B291" is not supported. Reimbursement in accordance with the Division's fee guideline is recommended

8. Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2010 DWC conversion factor for this service is 54.32.

Review of Box 32 on the CMS-1500 the services were rendered in Roanoke, Texas; therefore, the Medicare participating amount is based upon the locality of "Rest of Texas".

The Medicare conversion factor is 36.0791.

Using the above formula, the Division finds the following:

Code	Medicare Participating Amount	MAR	Total Paid	Total Due
95900-26	\$31.59	\$47.56 X 6 = \$285.36, Requestor is seeking \$196.62	\$0.00	\$196.62
95925-26	\$97.44	\$146.70, Requestor is seeking \$41.27	\$0.00	\$41.27
95937-26	\$23.96	\$36.07	\$0.00	\$36.07
95955-26	\$89.12	\$134.18, Requestor is seeking \$75.95	\$0.00	\$75.95

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$349.91.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$349.91 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____ Signature	_____ Medical Fee Dispute Resolution Officer	06/26/2014 _____ Date
--------------------	---	-----------------------------

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**